THE HONORABLE RICARDO S. MARTINEZ 1 2 3 4 5 6 UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON 7 AT SEATTLE 8 CITY OF ISSAQUAH, a municipal 9 corporation, Case No. 2:18-cv-00910-RSM 10 Plaintiff, STIPULATED MOTION AND 11 ORDER FOR DISMISSAL OF v. CLAIMS BY J.R. HAYES AND 12 **TALUS 7&8 AGAINST BIG** ORA TALUS 90, LLC, a Delaware limited 13 **MOUNTAIN ENTERPRISE** liability company; and RESMARK WITH PREJUDICE EQUITY PARTNERS, LLC, a Delaware 14 limited liability company, 15 NOTED ON MOTION **CALENDAR:** July 1, 2021 Defendants. 16 ORA TALUS 90, LLC, a Delaware limited 17 liability company; and RESMARK 18 EQUITY PARTNERS, LLC, a Delaware limited liability company, 19 Third-Party Plaintiffs, 20 v. 21 TERRA TALUS LLC, a Washington 22 limited liability company; ELEMENT RESIDENTIAL INC., a Washington 23 corporation; JOSHUA FREED, an 24 individual; J.R. HAYES & SONS, INC., a Washington corporation; and TERRA 25 ASSOCIATES, INC., a Washington corporation; 26

STIPULATED MOTION AND ORDER FOR DISMISSAL OF CLAIMS - 1 (Case No. 2:18-cv-00910-RSM)

Third-Party Defendants.

FOSTER GARVEY PC , 1111 Third Avenue, Suite 3000 Seattle, Washington 98101-3296 Phone (206) 447-4400/ Fax (206) 447-9700

26

TALUS 7 & 8 INVESTMENT, LLC, a Washington limited liability company; J.R. HAYES & SONS, INC., a Washington corporation,

Fourth-Party Plaintiffs,

v.

KULCHIN FOUNDATION DRILLING COMPANY, a Washington corporation; and BIG MOUNTAIN ENTERPRISES, LLC, a Washington limited liability company,

Fourth-Party Defendants.

AND RELATED COUNTERCLAIMS AND CROSSCLAIMS

I. STIPULATION

1. J.R. Hayes & Sons, Inc. ("J.R. Hayes") and Talus 7&8 Investment LLC ("Talus 7&8") and Big Mountain Enterprise, LLC ("Big Mountain") (collectively, "the Parties") hereby stipulate that due to the absence of evidence and/or expert opinion that Big Mountain contributed in any way to, or could be at fault for, the earth movement on Talus Parcel 9 occurring in the fall of 2015, J.R. Hayes' and Talus 7&8's causes of action against Big Mountain should be dismissed from this case with prejudice and without fees or costs to any of the Parties.

2. Big Mountain withdraws its Motion for Summary Judgment (Dkt. #175) as moot.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

DATED this 1st day of July, 2021. 1 2 3 PREG O'DONNELL & GILLETT PLLC FOSTER GARVEY PC 4 By: /s/ John K. Butler via e-mail authorization By: /s/ John P. Zahner 5 John K. Butler, WSBA #28528 John P. Zahner, WSBA #24505 David S. Cottnair, WSBA #28206 Devra R. Cohen, WSBA No. 49952 6 901 5th Avenue, Suite 3400 Third Avenue, Suite 3000 Seattle WA 98164 Seattle, WA 98101 7 Telephone: 206-447-2886 Telephone: 206-287-1775 Email: jbutler@pregodonnell.com Email: jack.zahner@foster.com 8 Email: sballard@pregodonnell.com Attorneys for J.R. Hayes & Sons, Inc., Talus 7 & 8, LLC, and Talus Management 9 Attorneys for Third-party Defendant / Fourth-Party Plaintiff J.R. Hayes & Services LLC 10 Sons, Inc. 11 12 STOEL RIVES LLP FLOYD PFLUEGER & RINGER, P.S. 13 By: /s/ Patrick Mullaney via e-mail authorization By: <u>/s/ Douglas K. Weigel via e-mail authorization</u> 14 Patrick Mullaney, WSBA #21982 Douglas K. Weigel, WSBA #27192 600 University Street, Suite 3600 Amanda D. Daylong, WSBA #48013 15 Seattle, WA 98101 200 W. Thomas Street, Suite 500 Telephone: 206-624-0900 Seattle, WA 98119 16 Telephone: 206-441-4455 Facsimile: 206-386-7500 17 Email: Patrick.mullaney@stoel.com Email: dweigel@floyd-ringer.com Attorneys for J.R. Hayes & Sons, Inc, Email: adaylong@floyd-ringer.com 18 Talus 7 & 8, LLC, and Talus Management Attorneys for Big Mountain Enterprises, LLC Services LLC 19 20 21 22 23 24 25 26

1 II. **ORDER** 2 Based on the foregoing Stipulation of J.R. Hayes & Sons, Inc., Talus 7&8 3 Investment LLC, and Big Mountain Enterprise, LLC, IT IS ORDERED: 4 5 6 All causes of action asserted by J.R. Hayes & Sons, Inc. and Talus 7&8 7 Investment LLC against Big Mountain Enterprise, LLC are dismissed with prejudice and 8 without fees or costs to any party. Further, Big Mountain Enterprise, LLC's Motion for 9 Summary Judgment (Dkt. #175) is withdrawn as moot. 10 11 DATED this 2nd day of July , 2021. 12 13 RICARDO S. MARTINEZ 14 CHIEF UNITED STATES DISTRICT JUDGE 15 16 17 presented by: 18 19 PREG O'DONNELL & GILLETT PLLC FOSTER GARVEY PC 20 By: /s/ John K. Butler via e-mail authorization By: /s/John P. Zahner 21 John K. Butler, WSBA #28528 John P. Zahner, WSBA #24505 David S. Cottnair, WSBA #28206 Devra R. Cohen, WSBA No. 49952 22 901 5th Avenue, Suite 3400 Third Avenue, Suite 3000 Seattle WA 98164 Seattle, WA 98101 23 Telephone: 206-287-1775 Telephone: 206-447-2886 Email: jbutler@pregodonnell.com Email: jack.zahner@foster.com 24 Email: sballard@pregodonnell.com Attorneys for J.R. Hayes & Sons, Inc., 25 Attorneys for Third-party Defendant / Talus 7 & 8, LLC, and Talus Management Fourth-Party Plaintiff J.R. Hayes & Services LLC 26 Sons, Inc.

1 STOEL RIVES LLP FLOYD PFLUEGER & RINGER, P.S. 2 By: /s/ Patrick Mullaney via e-mail authorization By: /s/ Douglas K. Weigel via e-mail authorization 3 Patrick Mullaney, WSBA #21982 Douglas K. Weigel, WSBA #27192 600 University Street, Suite 3600 Amanda D. Daylong, WSBA #48013 4 Seattle, WA 98101 200 W. Thomas Street, Suite 500 5 Telephone: 206-624-0900 Seattle, WA 98119 Facsimile: 206-386-7500 Telephone: 206-441-4455 6 Email: dweigel@floyd-ringer.com Email: Patrick.mullaney@stoel.com Email: adaylong@floyd-ringer.com Attorneys for J.R. Hayes & Sons, Inc, 7 Talus 7 & 8, LLC, and Talus Management Attorneys for Big Mountain Enterprises, LLC Services LLC 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26

CERTIFICATE OF SERVICE

The undersigned certifies under the penalty of perjury under the laws of the State of Washington that I electronically filed the foregoing document using the CM/ECF system which will provide notification of such filing to all attorneys of record

SIGNED this 1st day of July, 2021 at Seattle, Washington.

s/ Jan Howell

Jan Howell, Legal Assistant

CERTIFICATE OF SERVICE - 1 (Case No. 2:18-cv-00910-RSM)

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